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C O N F I D E N T I A L SECTION 01 OF 05 DILI 000341

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SUBJECT: EAST TIMOR SITREP FOR 30 JUNE

REF: DILI 339

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CLASSIFIED BY: Grover Joseph Rees, Ambassador, U.S. Embassy
Dili, Department of State.
REASON: 1.4 (b), (d)

¶1. (U) Summary:

--- Ramos-Horta to head interim government?
--- President may negotiate with Fretilin on new Prime Minister
---- Demonstrators depart after speeches by Gusmao, Alkatiri,
Lu'olo;
--- Alkatiri claims Parliamentary immunity in arms case;
--- Fretilin activists contend their leadership elections were
valid;
--- Fiscal year ends without adoption of new budget;
--- Incident raises concerns about potential for continued
unrest in Dili.
End Summary.

Ramos-Horta to head interim government?

¶1. (SBU) According to President Xanana Gusmao and acting
Foreign Minister Jose Ramos-Horta, by Monday (July 3)
Ramos-Horta will assume the role of "co-ordinating minister" in
an interim government that will last until the President
appoints a new Prime Minister. The designation of Ramos-Horta
will be made by ex-Prime Minister Mari Alkatiri, whose authority
to make such a designation rests on the theory that Alkatiri is
still in office as acting Prime Minister until a new Prime
Minister is sworn in. Ramos-Horta told the Dili diplomatic
corps today that Alkatiri will meet with the Fretilin party
Permanent Political Committee this weekend to inform them that he
is not presently able to perform his duties as interim Prime
Minister and has therefore designated Ramos-Horta, the
second-ranking government minister, as "co-ordinating minister."

Gusmao also told Ambassador Rees today that he thought this would happen. In response to a question about the underlying assumption that Alkatiri still retained some authority as interim Prime Minister, Gusmao responded, "that's their business."

¶2. (SBU) Ramos-Horta had expressed a preference for the title "Acting Prime Minister," see Reftel, but Alkatiri reportedly insists that the proper term is "Co-ordinating Minister."

¶3. (C) Comment: Both Ramos-Horta and Gusmao have accepted the word of their respective Portuguese legal advisors for the proposition that the Constitution of East Timor requires that a dismissed Prime Minister and all other government ministers remain in office until a new Prime Minister is sworn in. In fact the Constitution is silent on this question. Leaving dismissed government ministers in office during a transition is the most common practice in countries with parliamentary systems, but it is not universally followed, particularly in cases where particular ministers have been dismissed for cause. Ramos-Horta appears to believe that the Constitution explicitly requires this practice, and he also appears to believe that it is a good idea in the present circumstances. Gusmao, on the other hand, has doubts both about the legal necessity and the political wisdom of leaving Alkatiri with any power at all, but he appears to have concluded that the question is not worth fighting about so long as Alkatiri is willing to sign a letter vesting these powers in Ramos-Horta. Moreover, the President still retains ultimate authority over defense and security under the "declaration of crisis" that was recently renewed for another 30 days. See Reftel. President Gusmao has made it clear on a number of occasions, including in his meeting with Ambassador today, that he will no longer deal with Alkatiri as Prime Minister. However, acquiescing in the idea that Alkatiri has the authority to relinquish the powers of interim Prime Minister to a "Co-ordinating Minister" may lead to the conclusion that Alkatiri can later write another letter taking these powers back. It would have been at least as legally

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sound, and far more advisable from a political standpoint, for President Gusmao simply to have designated Ramos-Horta as Co-ordinating Minister pursuant to his own authority under the declaration of crisis. End Comment.

President may negotiate with Fretilin on new Prime Minister

¶4. (U) In his meeting with the diplomatic corps today Ramos-Horta announced that President Gusmao has gotten over his reluctance to negotiate with the Fretilin leadership, which has been based on his view that they were illegally elected and therefore have no legal standing (see Reftel). Ramos-Horta says Gusmao will soon receive a delegation from the Fretilin Central Committee (CCF) consisting of Alkatiri allies Ana Pessoa, Estanislau DaSilva, Arsenio Bano, and Jose Lobato, which will propose to him a candidate or candidates for Prime Minister. Ramos-Horta said he has urged "my colleagues, my friends" in the Fretilin leadership to "be flexible with names, to give the President a chance to appoint someone who is not only acceptable to Fretilin but also consistent with the mood of the country." He predicted they would be flexible and that the President would propose a new Prime Minister who would form a new government next week. Ramos-Horta also said that if the new government were acceptable both to the Fretilin leadership and to the general population of the country, it could remain in office until the 2007 elections with no need for a snap election this fall. But see paragraph 5.

¶5. (U) In his meeting today with Ambassador, President Gusmao suggested a different course of action than the one Ramos-Horta predicted to the diplomatic corps later in the afternoon. He reiterated earlier statements that there is currently no legitimate Fretilin party leadership to propose candidates for Prime Minister, and therefore that it will be necessary to hold a new party Congress soon. In the meantime, however, he has no

objections to meeting with individual Fretilin leaders and with the Fretilin party leadership of Parliament, whose status predates the May 2006 party congress and is therefore not affected by the illegal procedures at the Congress. Gusmao met this afternoon with Francisco "Lu'Olo" Guterres, who is President of Fretilin and also of the National Parliament, and with Francisco Branco, the leader of the Fretilin bench in Parliament. Gusmao told Ambassador that he would meet with Lu'Olo and Branco to urge that Parliament resume its sessions and pass an electoral law within the next few days, but he did not rule out listening to whatever they or other Fretilin leaders might have to say about discussing possible candidates for Prime Minister. Gusmao also reiterated his view that parliamentary elections should be held this fall rather than next spring.

¶6. (U) Possible "consensus" candidates for Prime Minister, who might be acceptable not only to Gusmao and to the Fretilin leadership but also to the general population of Timor, would include Ramos-Horta himself --- who insisted today that he preferred only to serve as defense minister in a new Government --- as well as ex-and-acting Minister of Health Dr. Rui Araujo and Jose Luis Guterres, Ambassador to the UN and to the United States.

¶7. (C) Comment: Dr. Ramos-Horta, who is once again attempting to mediate between President Gusmao and the current Fretilin leadership, may have been over-optimistic in his statements today about the two sides' willingness to meet each other halfway. Gusmao reiterated to Ambassador today that he cannot accept a candidate for Prime Minister from a group that in his view has no legal standing to offer such a candidate. Even if the President were to change his position on this question, it is difficult to imagine the current Fretilin leadership --- which basically consists of Alkatiri's Mozambique group plus their close ally Lu'Olo --- proposing anyone from outside their own immediate circle for Prime Minister. End Comment.

Demonstrators depart after speeches by Gusmao, Alkatiri, Lu'Olo

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¶8. (U) Fretilin party demonstrators from the eastern districts departed Dili this afternoon, after a morning during which they were addressed first by President Xanana Gusmao and then by ex-Prime Minister Alkatiri and other party leaders. Gusmao, who arrived to address the crowd at about 9 a.m., was received with little enthusiasm and questioned by members of the crowd about the pressure he has put on Fretilin leaders and about the security situation in Dili, where many homes identified as belonging to easterners have been burned in recent weeks.

¶9. (U) Within 30 minutes of Gusmao's departure, Alkatiri and Lu'Olo arrived to address the crowd. Their remarks focused on Fretilin's historical role and described it as a party of national unity, with no reference to East or West. They touched on the current issues under consideration by Gusmao, stating that the dissolution of Parliament would be unconstitutional and undemocratic. Fretilin MP Antonio Cardoso also delivered a speech, while Alkatiri and Lu'olo remained on the platform, in which he stated that the interim Prime Minister must be designated by Fretilin.

¶10. (U) Australian Defense Force (ADF) officers on the scene at the demonstration characterized the participants as thoroughly cooperative with all crowd control measures. Embuffs were at the demonstration this morning and observed that it was essentially a party rally, with key Fretilin leaders involved in its organization. Jose Reis, one of two newly-elected Deputy Secretaries General of the party and a close Alkatiri ally, was

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closely involved in all aspects of the organizing process. Alkatiri and Lu'Olo were also both directly involved in

coordinating security arrangements with the international forces. A few hours later the demonstrators left the capital in a convoy escorted by international forces.

Alkatiri claims Parliamentary immunity in arms case

¶11. (SBU) Alkatiri responded today to the Prosecutor General's summons to appear for questioning in connection with arming an alleged "hit squad" with a letter claiming immunity as a Member of Parliament. Alkatiri reportedly stated in his letter that the Prosecutor General would have to obtain authorization from Parliament before Alkatiri could be compelled to appear. The Prosecutor General today reportedly relayed a letter to the National Parliament requesting this authorization.

¶12. (SBU) The Constitution provides for Parliamentary immunity only for words and acts in the course of the member's official parliamentary duties. However, a law on the Status of Members of Parliament purports to create additional immunity beyond that set forth in the Constitution, stating that MPs cannot be arrested or placed in custody without authorization from the Parliament. Although this law does not explicitly preclude questioning a Member of Parliament in the process of an investigation, it has been used by MPs on previous occasions to avoid cooperating with investigations. Rather than test the constitutionality of this arrangement in court by seeking an arrest warrant for Alkatiri, the Prosecutor General appears to have deferred further action for the time being.

Fretilin activists contend their leadership elections were valid

¶13. (C) In conversations with Emboffs over the last two days, Fretilin sources close to Alkatiri have argued strongly that it is inappropriate for the President to treat the current party leadership as illegitimate. One Fretilin Central Committee (CCF) member stated that setting aside potential criminal charges, it was fair and appropriate for Alkatiri to resign solely on the basis that the nation's security institutions had "blown up" under his leadership. However, Fretilin insiders see the President's position on the legality of the party's

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leadership and consequent ineligibility to designate an interim prime minister as going too far. They also object to his statements that he will dissolve Parliament if Fretilin does not elect legitimate leaders and propose an acceptable candidate for Prime Minister.

¶14. (C) Fretilin party insiders are claiming that the party congress last month, at which the leadership was elected by a public hand vote after the secret ballot was abolished, was legal. They claim that under the law, any challenges to the legitimacy of the congress must be made within ten days, and that because no such challenge was made the results stand. Beyond this, they claim that any challenge should be pursued in court rather than by non-recognition of the Fretilin leadership in a collateral political context. Party insiders have also expressed unhappiness with the current impasse between Fretilin and the President, expressing their willingness to enter into dialogue with him and their frustration that he seems unwilling to do so. This frustration appeared to be somewhat ameliorated today by the President's agreement to meet with the delegation of Fretilin MPs headed by Lu'Olo and Branco. .

¶15. (C) Comment: The Fretilin insiders' heated assertions that the party leadership elections were legitimate and cannot be challenged make it appear unlikely that they will move quickly, if at all, to organize an extraordinary congress as demanded by the President. In Ramos-Horta's briefing today, however, he said he believed Fretilin had agreed a new Congress --- or perhaps a "national conference" --- to elect leaders by secret ballot, although he said it might take longer than a month and that the selection of a new Prime Minister could not await the outcome. Embassy is looking into the assertion that there is a

ten day time limit for challenges to party leadership, but it does not appear anywhere in the law governing political parties. The law does clearly state that leadership must be elected by a secret vote. The Fretilin members may be quoting their own

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party rules rather than the Political Parties Law, which as a statute is binding on all political parties and would invalidate any contrary provisions in party rules. End Comment.

Fiscal year ends without adoption of new budget

¶16. (U) A World Bank official expressed concerns to EmbOff today regarding the fact that today marks the last day of the 2005-2006 fiscal year. A budget was proposed by the recently resigned Government, but it has not been approved by Parliament. President Gusmao told Ambassador today, and GOET budget advisors appear to agree, that the budget proposed by the Alkatiri Government became obsolete with his resignation because of the constitutional provision that "draft legislation shall lapse with the dismissal of the Government." An Acting Prime Minister, such as Ramos Horta, could resubmit the same budget or a revised budget, or any Member of Parliament could introduce such a bill. There is also an emergency provision in Timorese law called the "duodecimal regime," which allows the government to draw upon unexpended funds in an amount up to one-twelfth of the previous year's budget each month.

¶17. (SBU) The GOET's inability to execute last year's budget has raised concerns that many of the recently announced supplemental expenditures aimed at addressing issues related to the current crisis will not be effectively executed due to a lack of capacity. The official also stated that the finance and procurement functions of the GOET have all but ground to a halt. According to this official, only one of the the few officials with the authority to sign checks and approve procurement orders remains in Dili, and even he refuses to report to work due to security concerns. On several occasions this official has reportedly met international advisors at undisclosed locations in Dili to sign checks so that GOET purchases of fuel and humanitarian supplies could go forward. The breakdown in the procurement system almost lead to a fuel shortage earlier this week and both the Ministry of Labor and the Ministry of Health are reporting that stocks of medical and humanitarian supplies

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are dangerously low. President Gusmao told Ambassador today that he is aware of this problem and has met with Ministry of Finance and Banking and Payments Authority officials to devise an interim arrangement that will ensure payment of properly authorized items while including safeguards against improper authorizations by ex-officials who are temporarily retaining their offices.

Incident raises concerns about potential for continued unrest in Dili

¶18. (C) Embassy today received an incident report from the ADF reporting that several Molotov cocktails were thrown at two ADF personnel carriers yesterday afternoon. This is the first instance of international troops being targeted using lethal means. (There have been a few previous rock-throwing incidents, none of which resulted in injuries.) None of the explosives caused any injury and none of the attackers were captured. Counter-demonstration groups numbering in the hundreds in the immediate vicinity of where the attacks occurred provided no information that might have been useful in apprehending potential suspects. At this point it cannot be ascertained whether this incident signals an escalating trend toward more directed violence against international forces.

¶19. (U) International NGOs working in the camps for internally displaced people (IDPs) today reported to us that numbers in the camps went up yet again following increased unrest June 27-28.

One camp alone reported that over 100 additional families have arrived.
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